APPENDIX

Pertinent provisions of the Emergency Price Control Act of 1942, as amended (Pub. L. 421, 729, 77th Cong., 2d Sess.)

SEC. 2. (a) Whenever in the judgment of the Price Administrator (provided for in section 201) the price or prices of a commodity or commodities have risen or threaten to rise to an extent or in a manner inconsistent with the purposes of this Act, he may by regulation or order establish such maximum price or maximum prices as in his judgment will be generally fair and equitable and will effectuate the purposes of this Act. So far as practicable, in establishing any maximum price, the Administrator shall ascertain and give due consideration to the prices prevailing between October 1 and October 15, 1941 (or if, in the case of any commodity, there are no prevailing prices between such dates, or the prevailing prices between such dates are not generally representative because of abnormal or seasonal market conditions or other cause, then to the prices prevailing during the nearest two-week period in which, in the judgment of the Administrator, the prices for such commodity are generally representative), for the commodity or commodities included under such regulation or order, and shall make adjustments for such relevant factors as he may determine and deem to be of general applicability, including the following: Spec-

ulative fluctuations, general increases or decreases in costs of production, distribution, and transportation, and general increases or decreases in profits earned by sellers of the commodity or commodities, during and subsequent to the year ended October 1, 1941. * * *

* * * * *

SEC. 203. (a) Within a period of sixty days after the issuance of any regulation or order under section 2, or in the case of a price schedule, within a period of sixty days after the effective date thereof specified in section 206, any person subject to any provision of such regulation, order, or price schedule may, in accordance with regulations to be prescribed by the Administrator, file a protest specifically setting forth objections to any such provision and affidavits or other written evidence in support of such objections. At any time after the expiration of such sixty days any persons subject to any provision of such regulation, order, or price schedule may file such a protest based solely on grounds arising after the expiration of such sixty days. Statements in support of any such regulation, order, or price schedule may be received and incorporated in the transcript of the proceedings at such times and in accordance with such regulations as may be prescribed by the Administrator. Within a reasonable time after the filing of any protest under this subsection, but in no event more than thirty days after such filing or ninety days after the issuance of the regulation or order (or in the case of a price schedule, ninety days after the effective date thereof specified in section 206) in respect of which the protest is filed, whichever occurs later, the Administrator shall either grant or deny such protest in whole or in part,

notice such protest for hearing, or provide an opportunity to present further evidence in connection therewith. In the event that the Administrator denies any such protest in whole or in part, he shall inform the protestant of the grounds upon which such decision is based, and of any economic data and other facts of which the Administrator has taken official notice.

* * * * *

SEC. 204. (a) Any person who is aggrieved by the denial or partial denial of his protest may, within thirty days after such denial, file a complaint with the Emergency Court of Appeals, created pursuant to subsection (c), specifying his objections and praying that the regulation, order, or price schedule protested be enjoined or set aside in whole or in part. A copy of such complaint shall forthwith be served on the Administrator, who shall certify and file with such court a transcript of such portions of the proceedings in connection with the protest as are material under the complaint. Such transcript shall include a statement setting forth, so far as practicable, the economic data and other facts of which the Administrator has taken official notice. Upon the filing of such complaint the court shall have exclusive jurisdiction to set aside such regulation, order, or price schedule, in whole or in part, to dismiss the complaint, or to remand the proceeding: *Provided,* That the regulation, order, or price schedule may be modified or rescinded by the Administrator at any time notwithstanding the pendency of such complaint. No objection to such regulation, order, or price schedule, and no evidence in support of any objection thereto, shall be considered by the court, unless such objection shall have been set forth by the com-

plainant in the protest or such evidence shall be contained in the transcript. If application is made to the court by either party for leave to introduce additional evidence which was either offered to the Administrator and not admitted, or which could not reasonably have been offered to the Administrator or included by the Administrator in such proceedings, and the court determines that such evidence should be admitted, the court shall order the evidence to be presented to the Administrator. The Administrator shall promptly receive the same, and such other evidence as he deems necessary or proper, and thereupon he shall certify and file with the court a transcript thereof and any modification made in the regulation, order, or price schedule as a result thereof; except that on request by the Administrator, any such evidence shall be presented directly to the court.

* * * * *

(d) Within thirty days after entry of a judgment or order, interlocutory or final, by the Emergency Court of Appeals, a petition for a writ of certiorari may be filed in the Supreme Court of the United States, and thereupon the judgment or order shall be subject to review by the Supreme Court in the same manner as a judgment of a circuit court of appeals as provided in section 240 of the Judicial Code, as amended (U. S. C., 1934 edition, title 28, sec. 347). The Supreme Court shall advance on the docket and expedite the disposition of all causes filed therein pursuant to this subsection. The Emergency Court of Appeals, and the Supreme Court upon review of judgments and orders of the Emergency Court of Appeals, shall have exclusive jurisdiction to determine the validity of any regulation

or order issued under section 2, of any price schedule effective in accordance with the provisions of section 206, and of any provision of any such regulation, order, or price schedule. * * *

* * * * *

SEC. 206. Any price schedule establishing a maximum price or maximum prices, issued by the Administrator of the Office of Price Administration or the Administrator of the Office of Price Administration and Civilian Supply, prior to the date upon which the Administrator provided for by section 201 of this Act takes office, shall, from such date, have the same effect as if issued under section 2 of this Act until such price schedule is superseded by action taken pursuant to such section 2. Such price schedules shall be consistent with the standards contained in section 2 and the limitations contained in section 3 of this Act, and shall be subject to protest and review as provided in section 203 and section 204 of this Act. All such price schedules shall be reprinted in the Federal Register within ten days after the date upon which such Administrator takes office.

Pertinent provisions of Procedural Regulation No. 1 (7 F. R. 971, February 13, 1942. Published as Title 32, Chapter XI, Part 1300, Sections 1300.01 to 1300.56, inclusive)

Pursuant to the authority of section 201 (d) and 203 (a) of the Emergency Price Control Act of 1942 (Public No. 421, 77th Cong., 2d Sess., Jan. 30, 1942), the following Rules are hereby prescribed for the issuance, protest and amendment of maximum price regulations, price schedules, and temporary maximum price regulations, and for ad-

justment or exception pursuant thereto and interpretation thereof:

* * * * *

Rule 11. *Time and place for filing protests.*—Any protest against a provision of a maximum price regulation shall be filed with the Secretary, Office of Price Administration, Washington, D. C., within a period of 60 days after the date of issuance of such regulation, regardless of the effective date prescribed therein: *Provided, however,* That any protest based solely upon grounds arising after the expiration of 60 days after the date of issuance of a maximum price regulation may be filed at any time after the grounds for such protest arise.

Rule 12. *Form of protest.*—Every protest shall contain, upon the first page thereof, the number and the date of issuance of the maximum price regulation against a provision of which the protest is made. One original and four copies of the protest and of all accompanying documents and briefs shall be filed. Each copy shall be printed, typewritten, mimeographed or prepared by a similar process, and shall be plainly legible. Copies shall be double spaced, except that quotations shall be single spaced and indented.

Rule 13. *Assignment of docket number.*—Upon receipt of a protest it shall be assigned a docket number, of which the protestant shall be notified, and all further papers filed in the proceedings shall contain on the first page thereof the docket number so assigned and the number and date of issuance of the maximum price regulation protested.

Rule 14. *Contents of protest.*—Every protest shall set forth the following:

(a) The name and the post office address of the protestant, the nature of his business, and the manner in which the protestant is subject to the maximum price regulation protested.

(b) The name and post office address of the person filing the protest on behalf of the protestant and the name and post office address of the person to whom all communications from the Office of Price Administration relating to the protest shall be sent.

(c) A clear and concise statement of all objections raised by the protestant against the provision or provisions protested, each such objection to be separately stated and numbered.

(d) A clear and concise statement of all facts alleged in support of the objections.

(e) A statement of the relief requested by the protestant including, if the protestant requests modification of a provision of the maximum price regulation, the specific changes which he seeks to have made in the provision.

(f) In cases where the protest is filed on grounds arising after the expiration of 60 days after the issuance of the maximum price regulation, a clear and concise statement of facts showing the time when such grounds arose.

(g) A statement, signed and sworn to by the protestant personally, that the protest and the documents filed therewith are prepared in good faith and that the facts alleged are true to the best of his knowledge, information, and belief. The protestant shall specify which of the facts alleged are known to him to be true and which are alleged on information and belief.

U. S. GOVERNMENT PRINTING OFFICE: 1943